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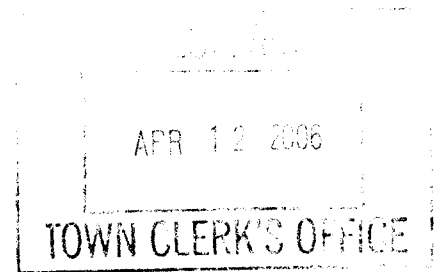
TOWN OF NEW WINDSOR

ZONING BOARD OF APPEALS

Regular Session

Date: MARCH 27, 2006

AGENDA



7:30 p.m. – Roll Call

PRELIMINARY MEETINGS:

1. **MT. AIRY ESTATES (06-14)** Request for 7.3 ft. Side Yard Setback for proposed single family dwelling at 3012 Molly Pitcher Drive in an R-3 Zone **(76-2-17)**
2. **MT. AIRY ESTATES (06-15)** Request for interpretation of single family dwelling with two kitchens and/or Use Variance for a two-family dwelling in an R-3 Zone at 2075 Independence Drive **(64-2-3)**
3. **MICHAEL & TAMMY PHIPPS (06-16)** Request for 14 ft. Rear Yard Setback for existing 10 X 20 enclosed porch at 4 Cresthaven Drive in an R-4 Zone **(39-3-3)**

PUBLIC HEARINGS:

4. **STEVEN PONESSE & DAWN MARIE MULDER (06-09)** Request for:

AREA VARIANCES

12 ft. Side Yard Setback and;
14 ft. Rear Yard Setback and;
15% Developmental Coverage

INTERPRETATION

Single Family Home with two kitchens

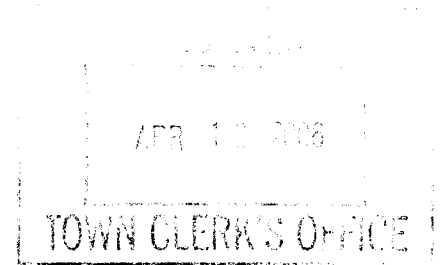
All at 33 Continental Drive in an R-4 Zone **(45-2-15)**

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

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MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
KIMBERLY GANN
KATHLEEN LOCEY
PAT TORPEY
ERIC LUNDSTROM

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

REGULAR MEETING

MR. KANE: I'd like to call the March 27, 2006 Town of
New Windsor Zoning Board of Appeals to order.

PRELIMINARY_MEETINGS

MT._AIRY_ESTATES_(06-14)

Mr. Marvin Rosenzweig appeared before the board for this proposal.

MR. KANE: First preliminary meeting tonight is Mt. Airy Estates. Request for 7.3 ft. side yard setback for proposed single family dwelling at 3012 Molly Pitcher Drive. Tell us what you want to do, sir.

MR. ROSENZWEIG: Well, we've had a similar situation before where we have a corner lot and naturally on a corner lot we don't have as much space as you have on the regular lots so we want to put a specific house on the lot similar to the rest of the houses in the development and that's why I'm before you, again. I believe that this should be the last one, I thought that that was the case once before.

MR. KANE: What changed just so I can ask since you, when you did all the lot dividing to get to the point where nothing's really--

MR. ROSENZWEIG: No, this is the third time that I've been here and I thought that the last time I had everything, third time or this might be the fourth.

MR. KANE: Next meeting will be the fourth, that's number 2.

MR. BABCOCK: Mr. Chairman, I think to help you answer your question I don't think Marvin got what you were saying, these lots were created in 1970, in 1970 they built these little tiny ranches that probably would fit on here in today's world, that's what really changed.

MR. ROSENZWEIG: Thank you.

MR. KANE: So the home itself is going to be similar in size and nature to other homes?

MR. ROSENZWEIG: It's probably one of the houses that we build in the development, a Carrington.

MR. KANE: How many square feet?

MR. ROSENZWEIG: 2,700.

MR. KANE: One car garage?

MR. ROSENZWEIG: It's a two car garage attached.

MR. KANE: Setback you need is over here, you're facing, is this going to be the front of the house where the driveway is or is the front of the house on Molly Pitcher.

MR. ROSENZWEIG: I believe the front is on Molly Pitcher.

MR. KANE: So the back left corner is where you basically need the 7 feet?

MR. BABCOCK: Actually the house is facing on Hamilton Way.

MR. KANE: Proposed driveway kicks out to Hamilton.

MR. ROSENZWEIG: No, the original was a different house then, we had a buyer that came along and didn't want the Brittany, you're looking at a Carrington, did you have a Carrington on it?

MR. BABCOCK: Brittany.

MR. ROSENZWEIG: No, it's a Carrington, that's the difference and it's facing on Molly Pitcher Drive with

the driveway.

MS. MASON: You probably have a little one attached to the paperwork to the referral.

MS. GANN: Are we looking at the right one?

MR. KANE: Yes, that's correct.

MR. LUNDSTROM: What are all the setbacks in that zone?

MR. KANE: Permitted is 18 is what I'm reading. And you really can't move it over because he had two front yards so that's 25 feet, you can't pick up because he would need a variance on that side so it doesn't make a lot of sense to shift it.

MR. LUNDSTROM: How close is the neighbor?

MR. KANE: He should be 18 feet.

MR. ROSENZWEIG: At this point, there are no other houses and no other people that live there yet so apparently that's why nobody showed up tonight.

MR. BABCOCK: This is not a public hearing, this is preliminary.

MR. TORPEY: We're going to wait until they move in.

MR. KANE: I don't see a really big problem. Any further questions? I'll accept a motion.

MS. GANN: I will offer a motion that we set up Mt. Airy Estates for a public hearing for their request for 7.3 foot side yard setback for proposed single family dwelling at 3012 Molly Pitcher Drive in an R-3 zone.

MS. LOCEY: Second the motion.

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ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

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MT._AIRY_ESTATES_(06-15)

Mr. Marvin Rosenzweig appeared before the board for this proposal.

MR. KANE: Request for interpretation of single family dwelling with two kitchens and/or use variance for a two-family dwelling in an R-3 zone.

MR. ROSENZWEIG: It's really not a full kitchen, just a stove with two cabinets next to it, it's right off the kitchen, there's no other rooms attached to the area and as you can see from the picture that was the intention right from the get-go with the homeowner who purchased the house, they added on that little area for the kitchen.

MR. KANE: Your intent though at the public hearing what we're going to have is just get your intent that it is a single family home, it's always going to be sold as a single-family home, always used as a single family home, you'll have single gas and electric meter coming into the home.

MR. ROSENZWEIG: That's what's in there already.

MR. KANE: That's what we'll ask, make sure you say yes, that's the idea.

MR. KRIEGER: And you'll ask to make sure it's not, can't be divided off or locked off from the rest of the house.

MR. KANE: That's correct, yeah, the pictures are obvious.

MS. GANN: Why do they want this?

MR. ROSENZWEIG: Apparently their Filipino and they have a, what's known as a dirty kitchen and a--you can

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confirm that?

MR. TORPEY: Oh, yeah, that's the way they live, they have a dirty and clean kitchen.

MR. LUNDSTROM: On the agenda it says and/or use variance for a two family dwelling.

MR. KANE: Well, basically, if the interpretation knocks down then what they do is they go ahead and try to go for a use variance so we always put both on for the applicant so in case with an interpretation which we have to do in a public hearing anyway if that gets knocked down he can proceed to try a use variance.

MR. LUNDSTROM: Current resolution would be?

MR. KANE: Current resolution is set him up for a public hearing.

MR. KRIEGER: Public hearing for either or.

MR. KANE: We'll ask him the same questions and his statements that it is for a single-family home, et cetera, and that puts everything on record for us and at that point if we, everybody votes on it if it goes through then we drop the whole use thing.

MR. ROSENZWEIG: I have a clarification to make, there's a C.O. issued on the house already and the house is closed so and this is something that was found out afterwards that a variance was required so I just, I have to let you know that the people have already closed on the house, we just want to make it official and they're ready to say and explain to me that's the fact why they're doing it.

MR. KRIEGER: So you're not the record owner of the house anymore, they are?

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MR. ROSENZWEIG: Yes, in a way, yes, but I'm representing, they assigned me as a representative.

MR. KRIEGER: Do we have a proxy?

MS. MASON: We do.

MR. KRIEGER: Also needs to submit a short form environmental.

MR. BABCOCK: We're hoping that this is going to be an interpretation like the other ones, this is really not a full kitchen, there was some pictures, did you see them?

MR. KANE: I saw it, they're really good pictures.

MR. BABCOCK: We think it should come here, go on record.

MS. GANN: What's the definition of a full kitchen, looks like there's a sink?

MR. ROSENZWEIG: No, there's no sink, two cabinets, counterspace on each side and a stove.

MR. KANE: You can see there's no other area extending out where somebody could rent it out.

MR. LUNDSTROM: Just on here identify where.

MR. ROSENZWEIG: That's not the same house as I thought you were looking at the other map, I'll show you where it is, it's right there.

MR. KANE: Basically, the reason that the building department is sending them here is that we can cover any fire hazards, anything like that, make it safe. No further questions on my part, I'll accept a motion.

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MS. GANN: I'll offer a motion to schedule a public hearing on the application of Mt. Airy Estates for the request for an interpretation of a single family dwelling with two kitchens and/or a use variance for a two-family dwelling in an R-3 zone at 2075 Independence Drive.

MS. GANN: Second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MICHAEL_&_TAMMY_PHIPPS_(06-16)

MR. KANE: Request for 14 ft. rear yard setback for existing 10 x 20 enclosed porch at 4 Cresthaven Drive.

Ms. Tammy Phipps appeared before the board for this proposal.

MS. PHIPPS: My name is Tammy Phipps, I'd like to get a C.O. issued on an existing enclosed porch at my home that was there when I bought it. We're in the process of selling, we have a binder on our house now and the homeowner would like to keep it.

MR. KANE: The questions that we'll ask you now are very similar to what we'll ask you at the public hearing, everything has to be done at a public hearing. If you don't know, just say so, but some questions we have to ask. Okay, so do you know was there any cutting down of any trees, substantial vegetation in the building of this?

MS. PHIPPS: No.

MR. KANE: Any water hazards or runoffs?

MS. PHIPPS: No.

MR. KANE: Any easements running through where the addition is on?

MS. PHIPPS: No.

MR. KANE: Any complaints formally or informally about the addition?

MS. PHIPPS: No.

MR. KANE: The house itself is similar to our homes in your neighborhood?

MS. PHIPPS: Many other split levels with either enclosed porches or full additions on the back.

MR. KANE: Or a deck of similar size?

MS. PHIPPS: Yes.

MR. KANE: And obviously though it's a self-created hardship, it would be physically impossible to take it down?

MS. PHIPPS: Yes.

MR. KRIEGER: When was it put up?

MS. PHIPPS: From what my neighbors tell me, approximately 30 years ago.

MR. KRIEGER: Okay.

MR. KANE: Anything in the records with that maybe a permit out or--

MR. BABCOCK: No, I don't have anything here, Mr. Chairman.

MR. KANE: Any other questions? I'll accept a motion.

MS. GANN: I will offer a motion that we set up Michael and Tammy Phipps for a public hearing for the request for 14 foot rear yard setback for an existing 10 x 20 enclosed porch at 4 Cresthaven Drive in an R-4 zone.

MR. LUNDSTROM: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE

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MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

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PUBLIC HEARINGS:

STEVEN_PONESSE & DAWN_MARIE_MULDER_(06-09)

MR. KANE: Request for area variances, 10 ft. side yard setback, 14 ft. rear yard setback, 15% developmental coverage and interpretation for single family home with two kitchens all at 33 Continental Drive.

Mr. Steven Ponesse and Ms. Dawn Marie Mulder appeared before the board for this proposal.

MR. KANE: Tell us what you want to do.

MR. PONESSE: We're putting an addition, we were gonna go 30 feet but last time we were here you asked if we can go 28 feet so we're going to go 28 feet so we're ten feet off the line, put on an addition it's going to be 28 x 35.

MR. KANE: Cutting down any substantial vegetation or trees?

MR. PONESSE: No, there were two trees that were cut down.

MR. KANE: Creating any water hazards or runoffs?

MR. PONESSE: No.

MR. KANE: Will the addition of the home keep the home in similar size and nature to other homes in your neighborhood?

MR. PONESSE: Yes.

MR. KANE: The purpose for adding the addition?

MR. PONESSE: I'm moving my parents in.

MR. KANE: And you have a, let's handle this first, let's go right over to the interpretation, it's a single-family home, you have two kitchens, your intent is to keep it as a single-family home?

MR. PONESSE: Yes.

MR. KANE: You'd sell it as a single family home?

MR. PONESSE: Yes.

MR. KANE: You have one gas and electric meter coming into the home?

MR. PONESSE: Correct.

MR. KANE: Second kitchen is to service your parents, obviously?

MR. PONESSE: Yes.

MR. TORPEY: What did you decide on the deck?

MR. PONESSE: Screened-in porch, it's going to be a screened-in porch.

MR. TORPEY: That's it?

MR. PONESSE: Yeah, right, to the other one.

MR. TORPEY: You gave up on the pool, right?

MR. PONESSE: No, I'm getting paperwork for that too and I'm going to do the pool, they told me I needed a variance if it was going to be up against my deck but then I came back and they told me it didn't so I don't know.

MR. KANE: How far back does your property go?

MR. PONESSE: From the deck it's 40 feet, when I got the variance last time for the deck it had to be 40 feet so I'm 40 feet from the deck to the fence.

MR. KANE: If that pool attaches to your deck and goes beyond the deck he has to get a variance, correct, he needs 40?

MR. PONESSE: I was here twice.

MR. KANE: I want to clarify that right now.

MR. BABCOCK: Well, I'm not sure I understand the drawing, the drawing of the pool is out in the middle of the yard?

MR. PONESSE: That's because the one inspector told me I had to do that then I came last week to bring the paperwork to get the variance and the girl at the front desk says you don't need a variance and I said well, inspector told me I did, she said well, let me go get him, he came out and said you don't need that, you can put it up against the deck.

MR. KANE: I've been building pools for 15 years, you need a variance.

MR. TORPEY: Once the pool connects to the deck.

MR. KANE: Yes, it becomes part of the house and you'll need a variance for whatever it is for that going back to the 40 feet you need 40 back.

MR. TORPEY: Last meeting Mike was explaining to you.

MR. PONESSE: I understand that, that's why I came here with the drawings and stuff and I told them what I wanted to do.

MR. KANE: With the drawing that you showed them is

there any deck attached to the pool?

MR. PONESSE: No, I was going to go out to the side and right up to the deck and he told me I can go up to the deck so I don't know, you know, I don't know what to do.

MR. KANE: Trust me, you need a variance.

MR. PONESSE: One day you can, one day you can't.

MR. KANE: Somebody misunderstood.

MR. PONESSE: Can I get the variance along with this or separate?

MR. KANE: No, it has to be in a public notice, unless you find a different way to design it, you don't need to be here.

MR. PONESSE: It would have to be how far off the deck?

MR. KANE: As long as you walk down, hit the ground, other steps coming up.

MR. PONESSE: That's what I'm not understanding.

MR. KANE: They can't be connected.

MR. PONESSE: If I put, if this is my deck here and I put the pool here, how far do I have to be?

MR. KANE: Couple more feet, you can step off, the rule is four foot clearance all the way around your pool.

MR. PONESSE: So four feet off that?

MR. KANE: If you go four feet away from the deck and have a set of steps coming up on that deck for the pool you don't need a variance.

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MR. PONESSE: I was told I had to be ten feet.

MS. MASON: There must be a setback from the deck.

MR. KANE: Well, it changes if the pool is not attached to the deck which is part of the house it's an auxiliary structure and depending on where you are in New Windsor, it's either 15 feet and 10.

MR. BABCOCK: If this here it's 10 feet if he puts this pool against where the screened porch deck is, is that what you're talking about then, okay, it's the deck part, it's not the pool, he'd be okay, he'd be fine there.

MR. KANE: Right there where it is?

MR. BABCOCK: Yes.

MS. GANN: Because that doesn't go out as far.

MR. BABCOCK: Pool has to be ten feet from the property line, you're putting a deck around the pool?

MR. PONESSE: No.

MR. KANE: Then you've got a problem.

MR. PONESSE: No, I want to use the original deck that's there.

MR. BABCOCK: No problem.

MR. PONESSE: So I can put my pool up against the deck?

MR. BABCOCK: You're going to have to make something to get in and out of the pool it's got to touch so it's square on.

MR. PONESSE: If I put it up against here, I put my ladder on the deck, that's legal?

MR. BABCOCK: Yes, as far as setbacks, as far as the setbacks it is.

MR. PONESSE: I'm not sure.

MR. BABCOCK: As far as the way--

MR. KANE: Can I see where he has the pool?

MR. BABCOCK: On this he has the pool out in the middle of the yard, if he puts the pool flush against the deck, this is the deck right here, I'm coming off the existing deck that's there already, it's going to be, if he puts the pool here, it's okay.

MR. KANE: And if he can get into the pool from this deck.

MR. BABCOCK: Then he's got other items that he's got to deal with.

MR. KANE: It's not as cut and dry, it's different.

MR. BABCOCK: I don't know how far the deck is off the ground.

MR. PONESSE: It's pretty high off the ground.

MR. BABCOCK: This has to have a closing gate on it.

MR. PONESSE: Right, I have the rails that are this high so I'll have the gate, I'll just cut one of the sections out and have a gate there.

MR. KANE: My thought we always tell the people if that's there and that's attached and you can enter the pool from the deck that's part of the house, it becomes

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part of the house and the back would be 40 feet.

MR. BABCOCK: No, the pool's okay like that.

MR. KANE: Okay.

MR. BABCOCK: If he puts the deck around the pool then he's got a problem.

MR. PONESSE: That's why I wanted to put it up against there so I didn't have to do that.

MR. KANE: That sounds good, doesn't sound like you need any.

MR. PONESSE: I just have to bring in whatever's on the paperwork and get a permit for that?

MR. KANE: Yes.

MR. KRIEGER: If he says he'll give you a permit that's all you need to know.

MR. KANE: Okay, we had a 12 foot side yard setback that was on the addition.

MR. PONESSE: Side's going to be 10 feet off.

MR. LUNDSTROM: Instead of 12?

MS. MULDER: Original request was 12 feet.

MR. KANE: So we're going to make it 10?

MR. PONESSE: Unless I can go cause you guys asked me not to.

MR. KANE: Change that to 10 everybody, that 12 to 10 and then we have a 14 foot rear yard setback.

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MR. PONESSE: That can't be possible cause it's got to be over 40 feet from where my, cause my deck now is 40 feet from there to the fence so it's going to be 40 feet from my screened porch to there.

MS. MASON: You went over all these numbers with the inspector before he submitted the paperwork, right?

MR. PONESSE: He didn't go over any numbers with me.

MS. MASON: Remember you came you in and I said go back in to the inspector and make sure this is everything that you need.

MR. PONESSE: He didn't say anything about numbers.

MR. BABCOCK: Well, you've got--

MR. KANE: Actually on the denial there's no rear yard setback.

MR. BABCOCK: Yeah, there is.

MR. PONESSE: I think it's over 40 feet.

MR. BABCOCK: Well, needs to be 50.

MR. KANE: Available is 36 so you need 14, you need 14 and then 15 percent developmental coverage, anybody have any questions? I'll accept a motion.

MR. BABCOCK: You have to open it up to the public.

MR. KANE: I'm sorry, anybody in the public for this particular hearing? There's not so we'll close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On March 15, I mailed out 56 addressed envelopes and no response.

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MR. KANE: Okay, now we'll take it back to the board.

MS. LOCEY: I will offer a motion to grant the requested variances on the application of Steve Ponesse and Dawn Marie Mulder for a 10 foot side yard setback, a 14 foot rear yard setback and 15 percent developmental coverage all at 33 Continental Drive in an R-4 zone.

MR. BABCOCK: Have to add the two kitchens.

MR. KANE: We find that the interpretation--

MS. GANN: The interpretation of their application to be a single family home with two kitchens.

MS. LOCEY: I'll second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: Motion to adjourn.

MR. LUNDSTROM: So moved.

MS. GANN: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE

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MR. KANE

AYE

Respectfully Submitted By:

Frances Roth
Stenographer